



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0587/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Harley-Davidson Australia Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Vehicle</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>18/01/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

2.6 - Health and Safety Unsafe behaviour

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens on a young boy playing with toy cars on his driveway. We then see his dad drive up on a motorbike. The boy grabs a helmet and runs to the end of the drive to meet his dad who stops the bike and lifts his son up to sit in front of him so he can drive up to the house. The final scene shows the man drive in to the garage and lift the boy down and the onscreen text reads, "Live your legend".

## THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

*Health and safety, I think this ad indicates that it is acceptable to take children on motorbikes. The child is maybe four.*

## THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*Details of the advertising are as follows*

- *Advertising ran from November 20 through December 16, 2016 on TV only*
- *The ad ran through regional QLD & VIC markets only*
- *The TVC film used was produced in the USA and edited locally only to include end frames that promote the Australian URL and how to test ride*
- *The ad depicts a father arriving home on his motorcycle to his waiting son, and draws on the theme of not waiting until your kids grow up for motorcycle ownership*
- *The ad is CAD approved (CAD reference P37FKMVF and letter included)*

*We considered the complaint and while cognizant of feelings and attitude that may have led to the complaint, submit that it be dismissed on that basis that:*

- *The rider pulls up in his driveway and the child, having put on an appropriate helmet, is given a short ride into the garage, cradled between the father's outstretched arms at low speed*
- *The child wore a helmet, the speed was low, the ride was short and on private property i.e. not on a public road*
- *The rider wears approved riding gear (helmet, jacket, boots, gloves, etc) during the film*
- *This reflects the kind of activity that is normal in families where a motorcycle rider is part of that family and at no time was the child depicted as being in anything but a loving, caring relationship and was never in any danger.*

*We further feel that the ad does not contravene any part of S2 of the AANA Code Of Ethics for Consumer Complaints and that it also complies with all sections of the FCAI Code of Practice For Motor Vehicle Advertising.*

*Please do not hesitate to contact the undersigned for any further information.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concerns that the advertisement depicts a young child riding on a motorbike which is contrary to prevailing community standards on health and safety.

The Board viewed the advertisement and noted the advertiser's response.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community

Standards on health and safety”.

The Board noted that this television advertisement shows a young boy meeting his dad at the bottom of the driveway and the dad lifting the boy on to his motorbike as he drives in to the garage.

The Board noted that Section 271 5(A) of the Australian Road Rules (February 2012 version) provides that:

“The rider of a motor bike must not ride with a passenger who is under 8 years old unless the passenger is in a sidecar.”

The Board noted that the boy in the advertisement does appear to be under the age of 8 years old however the Board noted that he is wearing a helmet and his dad only drives him up the driveway of their home and in to the garage. The Board noted that the motorbike is traveling slowly and considered that the dad is in full control of the motorbike and in the Board’s view the depiction of a man carrying his son on his motorbike a short distance on his private driveway is not likely to encourage people to take children out on public roads and is not a breach of prevailing community standards on road safety.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety around road safety and determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.